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United States of America
FEDERAL TRADE COMMISSION
Southeast Region

MEMO ENDORSED

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June 22, 2023

VIA ECF

Hon. Colleen McMahon
Southern District of New York
500 Pearl Street, Room 2550
New York, New York 10007

60-day stay granted

Colleen McMahon

6/28/2023

Re: *FTC, et al. v. Roomster Corp., et al.*, 1:22-cv-7389;
Request for 60-day stay

Dear Judge McMahon:

I represent Plaintiff the FTC and write with the consent of all parties, including co-Plaintiff States of California, Colorado, Florida, Illinois, New York and the Commonwealth of Massachusetts ("Plaintiff States," and together with the FTC, "Plaintiffs") and Defendants Roomster Corp., John Shriber, and Roman Zaks ("Defendants," and together with Plaintiffs, the "Parties"), pursuant to Rule V.H. of the Court's Individual Practices and Procedures to jointly seek a 60-day stay of all proceedings, with a limited exception allowing Plaintiff States to seek restitution data from third parties if necessary. This request is made to conserve the Parties' and judicial resources while Plaintiffs seek necessary approvals from the Commission and Plaintiff States' attorneys general of a proposed settlement that would resolve all pending claims.

Plaintiff FTC is an independent governmental agency of the United States of America. A body of commissioners (the "Commission") heads the FTC. Commission action, such as settling litigated matters, may only be taken with affirmative concurrence of a majority of the participating Commissioners. *See* 16 C.F.R. § 4.14(c). Because the Commission cannot delegate its authority to settle litigation, the undersigned counsel is not able to commit or bind the Commission to settlement. *Id.*

Likewise, the Plaintiff States must obtain authority to settle litigation from their respective attorneys general.

A proposed settlement has been reached resolving this action in the form of a proposed stipulated final order for permanent injunction and monetary judgment signed by Defendants. The proposed stipulated final order includes injunctive relief and a monetary payment for purposes of providing restitution to consumers. Counsel for the FTC and for the Plaintiff States will recommend that the Commission and the respective attorneys general accept the proposed final order, which, if approved, will be presented to the Court shortly thereafter. Counsel is hopeful that the Commission and the attorneys general will consider the proposed settlement within 60 days but will update the Court in advance of that date if additional time is needed.

Absent a stay, the Parties will expend significant time and resources continuing to litigate this matter, which will be unnecessary if the settlement is approved.

Accordingly, to conserve judicial resources and the Parties' resources, the Parties jointly request a stay of these proceedings, including a stay of all current deadlines and the deadlines set forth in the Civil Case Management Plan (Doc. 41), with the exception of any third-party discovery seeking restitution data during the stay. This limited exception would facilitate the restitution contemplated by the proposed settlement by allowing Plaintiff States to, if necessary, obtain discovery of customer and payment data from third parties (such as app stores) during the pendency of the stay. For these reasons, we respectfully request that the Court order the stay sought herein. We thank the Court for its attention to this matter.

Sincerely,



Angeleque P. Linville

cc: all counsel of record

Hon. Magistrate Judge Sarah Netburn
Southern District of New York
40 Foley Square, Room 430
New York, New York 10007